

REMARKS

[0001] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 3-8, 19-24, 28, and 31 are presently pending. Claims 19 and 24 are amended herein. Claim 50 is canceled herein.

Formal Request for an Interview

[0002] If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0003] Please contact me to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for me, I welcome your call as well. My contact information may be found on the last page of this response.

Formal Matters

[0004] This section addresses any formal matters (e.g., objections) raised by the Examiner.

Drawings

[0005] The Examiner objects to the figures for failing to include all of the recitations on the claims. Herewith, Applicant submits replacement FIG. 2 to correct the informalities noted by the Examiner. Accordingly, the specific recitations in which the Examiner is having troubling identifying in the drawings as filed are clearly shown as follows:

[0006] “An interface of the bay” (claim 19) is shown in FIG. 2 as denoted by reference number 211, 212, or 213.

[0007] “A mounting structure for releasably holding the module” (claim 19) is shown in FIG. 2 as denoted by reference number 201.

[0008] “A mission module contains equipment for performing one of the following missions: a mine hunting mission, an anti-submarine mission, a special-operation mission, and an intelligence/surveillance/reconnaissance mission” (claim 21) is shown in FIG. 1 as reference number 105. Despite not showing specific aspects of the mission module that may include equipment suited to each specific purpose, the mission module, itself, is shown in sufficient detail as is necessary to understand the invention.

[0009] “A weapon turret and antenna” (claim 23) is shown in FIG. 2 as reference number 215.

Claims

[0010] The Examiner objects to claim 19 for minor grammatical discrepancies. Herein, Applicant amends these claims, as shown above, to address the objection made by the Examiner, and to expedite prosecution.

Substantive Matters

Claim Rejections under § 102 and § 103

[0011] The Examiner rejects claims 3-7, 19-22, 28, and 31 under § 102. For the reasons set forth below, the Examiner has not shown that the cited reference anticipates the rejected claims.

[0012] In addition, the Examiner rejects claims 8, 23, and 24 under § 103. For the reasons set forth below, the Examiner has not made a *prima facie* case showing that the rejected claims are obvious.

[0013] Accordingly, Applicant respectfully requests that the § 102 and § 103 rejections be withdrawn and the case be passed along to issuance.

[0014] The Examiner's rejections are based upon the following references:

- **U.S. Patent No. 4,476,798 to Backus et al:** "Backus et al" hereinafter (issued October 16, 1984);
- **U.S. Patent No. 4,509,838 to Breivik et al:** "Breivik et al" hereinafter (issued April 23, 1996);
- **U.S. Patent No. 4,031,838 to Schmidt et al:** "Schmidt et al" hereinafter (issued June 28, 1977); and
- **Russian Patent No. SU 1221043:** "*SU 1221043*" hereinafter.

Anticipation Rejections

[0015] Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim.¹ Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim.²

Based upon *Backus et al*

[0016] The Examiner rejects claims 3, 4, 6, 7, 20-22, 28, 31, and 50 under 35 U.S.C. § 102(b) as being anticipated by *Backus et al*. Applicant respectfully traverses the rejection of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

Independent Claim 19

[0017] Applicant's attorney submits that *Backus et al* does not anticipate this claim because it does not disclose all of the elements as recited in this claim. In specific, claim 19, as amended, recites "wherein the hull includes struts that define a cavity through which water that supports the hull may flow beneath the mission module[.]" With reference to FIGS. 1 and 2 of the specification, one can see that the mission module 105 is disposed underneath the top deck and

¹ "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

² See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

between two elongated struts 112a and 112b that are part of the hull. The struts form a cavity wherein water (e.g., the ocean surface) may freely flow in and out of the cavity. The water also supports the vessel itself as well as a mission module that may be floated into the cavity to the bay. Thus, when the vessel 100 maneuvers over the top of the mission module 105, the mission module may be engaged and secured underneath the top deck of the vessel 100 in the bay 110 between the struts 112a and 112b.

[0018] *Backus et al*, however, shows struts as part of the hull, or struts that allow water supporting the hull to flow between the struts as recited in claim 19. In the rejection of formerly pending claim 50, the Examiner contends that transverse floors 40 of FIG. 3 of *Backus et al* may be construed to be struts as recited in this claim. Of course, these structures are disposed at the bottom of the receiving bay and not disposed on the outside of the hull wherein water supporting the hull itself may flow between the struts. There is no teaching or suggestion in *Backus et al* that may be construed to teach struts disposed as part of the hull that define a cavity through which water that supports the vessel may flow beneath the mission module as recited in claim 19.

[0019] Consequently, *Backus et al* does not disclose all of the elements and features of this claim. Accordingly, Applicant's attorney asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 3, 4, 6, 7, 20-22, 28, 31, and 50

[0020] These claims ultimately depend upon independent claim 19. As discussed above, claim 19 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

[0021] For example, claim 21 recites a mission module comprising a mine-hunting mission module. There is no disclosure in any prior art of record that teaches or even suggests a mission module having mission-specific equipment for a mine-hunting mission. The Examiner does not provide any specific reference to any prior art of record that teaches at least this recitation. For at least this additional reason, claim 21 is allowable over the prior art of record.

Based upon *Breivik et al*

[0022] The Examiner rejects claims 3-8, 20-22, and 28 under 35 U.S.C. § 102(b) as being anticipated by *Breivik et al*. Applicant's attorney respectfully traverses the rejection of these claims. Based on the reasons given below, Applicant's attorney asks the Examiner to withdraw the rejection of these claims.

Independent Claim 19

[0023] Applicant's attorney submits that *Breivik et al* does not anticipate this claim because it does not disclose all of the elements as recited in this claim. In specific, claim 19, as amended, recites "struts that define a cavity through which

water that supports the hull may flow beneath the mission module[.]” The struts form a cavity wherein water (e.g., the ocean surface) may freely flow in and out of the cavity. The water also supports the hull of the vessel itself as well as a mission module that may be floated into the cavity to the bay. Thus, when the vessel 100 maneuvers over the top of the mission module 105, the mission module may be engaged and secured underneath the top deck of the vessel 100 in the bay 110 between the struts 112a and 112b.

[0024] *Breivik et al*, however, does not show struts as part of the hull as recited in claim 19. There is no teaching or suggestion in *Breivik et al* that may be construed to teach struts that define a cavity through which water that supports the vessel may flow beneath the mission module as recited in claim 19.

[0025] Consequently, *Breivik et al* does not disclose all of the elements and features of this claim. Accordingly, Applicant’s attorney asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 3-8, 20-22, and 28

[0026] These claims ultimately depend upon independent claim 19. As discussed above, claim 19 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Obviousness Rejections

Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)

[0027] Applicant's attorney disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a *prima facie* case have not been met. To establish *prima facie* obviousness of a claimed invention, all of the claim recitations must be taught or suggested by the prior art¹ and "all words in a claim must be considered in judging the patentability of that claim against the prior art."² Further, if prior art, in any material respect teaches away from the claimed invention, the art cannot be used to support an obviousness rejection.³ Moreover, if a modification would render a reference unsatisfactory for its intended purpose, the suggested modification / combination is impermissible.⁴

Dependent Claims 8 and 23

[0028] These claims ultimately depend upon independent claim 19. As discussed above, claim 19 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally,

¹ *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)

² *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)

³ *In re Geisler*, 116 F.3d 1465, 1471, 43 USPQ2d 1362, 1366 (Fed Cir. 1997)

⁴ See MPEP § 2143.01

some or all of these claims may also be allowable for additional independent reasons.

Independent Claim 24

[0029] Claim 24 has been amended to be independent and to include the recitations of claim 19. With respect to the 103 rejection of claim 24, Applicant's attorney submits that the combination of *Backus et al* and *SU 1221043* is not a permissible combination of prior art with respect to establishing a *prima facie* case for obviousness. The Examiner correctly acknowledges that there is no teaching of a ramp that may support the mission module as it is being loaded. Notwithstanding that *SU 1221043* may teach a ramp, there is no teaching as to how the ramp may facilitate the interfacing a mission module to a bay disposed below a top deck as recited in claim 24. *SU 1221043* cannot be construed to teach a ramp capable of supporting a mission module as the module is moved into the bay as *SU 1221043* does not show any cognizance of a bay disposed below a top deck.

[0030] Further, there is no teaching, suggestion or motivation to modify the vessel of *Backus et al* as the entire top deck of the vessel is an open bay by design. There would be no need to use a ramp when the entire top deck is open in the manner shown in *Backus et al*. As a result, one skilled in the art the time the invention was made would not have sought to add a ramp to the vessel of *Backus et al* in the manner contended by the Examiner.

[0031] Moreover, Applicant's attorney submits that the Examiner has failed to provide any reason or motivation as to why *Backus et al* and *SU 1221043* should be combined in the manner suggested in the Office Action. Applicant's attorney reminds the Examiner that despite the recent Supreme Court decision in *KSR International Co. v. Teleflex Inc.*, et al. 550 U.S. 398, 127 S. Ct. 1727, 82 U.S.P.Q.2d 1385, there still remains a broader interpretation of the TSM test. That is, at least some reason must be provided as to why prior art references should be combined in the manner suggested. The mere possibility that a prior art teaching could be modified or combined such that its use would lead to the particular limitations recited in a claim does not make the recited limitation obvious, unless the prior art suggests the desirability of such a modification.¹

[0032] For at least the foregoing reasons, Applicant's attorney submits that no permissible combination of *Backus et al* and *SU 1221043 et al* teaches or even suggest all of the elements and features of this claim. Accordingly, Applicant's attorney asks the Examiner to withdraw the rejection of this claim.

¹ See *In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984).

Conclusion

[0033] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action**. Please call or email me at your convenience.

[0034] Any additional fees required as a result of this amendment have been paid from the below-referenced deposit account as filed herewith. Should further payment be required to cover such fees you are hereby authorized to charge such payment to Deposit Account No. 07-1897.

Respectfully Submitted,

Graybeal Jackson LLP
Representatives for Applicant

/Kevin D. Jablonski/
Kevin D. Jablonski (kevin@graybeal.com)
Registration No. 50,401
USPTO Customer No.: 00996

Dated: February 2, 2009

Telephone: (425) 455-5575
Facsimile: (425) 455-1046